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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,906	01/02/2001	Pieter Wilhelmus Johannes Smak	B0-42001	7281

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EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,906

Applicant(s)

SMAK, PIETER WILHELMUS
JOHANNES

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Des. 322,048 to Saarinen in view of European Patent EP 0758524 to Houg.

Regarding Claim 39, Saarinen teaches a bulb tray with a plastic body having a number of accommodations for receiving one bulb in each accommodation, each of the accommodations being delimited by peripheral boundary walls and having a plurality of radially inwardly extending positioning members for clamping the bulb, each positioning member having a free edge, wherein each accommodation is provided at the top with an insertion opening for the bulb (Fig. 1) and is at least partially open at the bottom; the opening at the bottom being delimited by a cutting edge acting in the direction in which the bulb is removed from the accommodation (Fig. 4).

Saarinen is silent on adjacent accommodations sharing a common peripheral boundary wall over a full height of the accommodation from a top to a bottom. However, Houg teaches a tray with a common peripheral boundary wall (Houg Fig. 4). It would have been obvious to one of ordinary skill in the art to modify the teachings

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of Saarinen at the time of the invention with the teachings of Houg for ease of manufacturing and to prevent the tray from bending.

Regarding Claim 46, Saarinen as modified discloses that the accommodations has eight sides and arranged in a honeycomb pattern (Saarinen Fig. 1), but is silent on a six sided design. However, it would have been obvious to one of ordinary skill in the art to modify the teachings since the modification is merely an aesthetic design choice or a change in size to accommodate different size bulbs. Furthermore, Saarinen as modified is silent that the positioning members extend from a corner point of the accommodation. However, it would have been obvious to one of ordinary skill in the art since the modification is merely an engineering design choice of shifting the location of parts that perform the same intended function.

Regarding Claims 40 and 47, Saarinen as modified teaches the positioning members are plates extending increasingly further into the accommodation from the insertion opening to the bottom of the accommodation (Saarinen Fig. 3 and Fig. 4).

Regarding Claims 41 and 48, Saarinen as modified teaches the plates are substantially perpendicular to the peripheral boundary of the accommodation (Saarinen Fig. 3 and Fig. 4).

Regarding Claims 42 and 49, Saarinen as modified inherently teaches that the positioning members have sharp cutting edges (Saarinen Fig. 4).

Regarding Claims 43 and 50, Saarinen as modified teaches that each accommodation has at least three positioning members (Saarinen Fig. 4).

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Regarding Claims 44 and 51, Saarinen as modified does not explicitly teach that the boundary walls are of a thickness less than 2.5 mm. However, it would have been obvious to one of ordinary skill in the art to modify the teachings since the modification is merely an engineering design choice to achieve certain manufacturing cost parameters.

Regarding Claims 45 and 52, Saarinen as modified discloses that the positioning members have strips of material fixed at the top of the accommodations for resiliently clamping the plants (Saarinen Fig. 3).

Regarding Claims 53 and 54, Saarinen as modified teaches the bulb tray cultivation system (Saarinen Fig. 1-4), but is silent on the container that receives the bulb tray and free space. However, It would have been obvious to one of ordinary skill in the art to modify the teachings since it is and old and notoriously well-known to provide a tray under a plant support for transporting purposes and for use in hydroponic systems for collecting/distributing liquids and nutrients.

Regarding Claim 55, Saarinen as modified does not explicitly teach that the boundary walls are of a thickness less than 2.5 mm. However, it would have been obvious to one of ordinary skill in the art to modify the teachings since the modification is merely an engineering design choice to achieve certain manufacturing cost parameters.

Claims 56, 57, 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Des. 322,048 to Saarinen in view of European Patent EP 0758524 to

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Houng as applied to claims 39, 46, 53 above, and further in view of U.S. Patent No. 4,991,345 to Bloch.

Regarding Claims 56-58, Saarinen as modified is silent on plural legs that each depend from the bottom of a respective one of the accommodations to elevate the bottom of the accommodations. However, Bloch teaches an accommodation with legs on the bottom of the accommodation (Bloch #29 and 86). It would have been obvious to one of ordinary skill in the art to modify the teachings of Saarinen with the teachings of Bloch at the time of the invention to promote proper irrigation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 39-43 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent EP 0758524 to Houng et al

Regarding Claims 39 and 45, Houng et al teaches a bulb tray with a plastic body having a number of accommodations for receiving one bulb in each accommodation (Houng Fig. 4 #110b), each of the accommodations being delimited by peripheral boundary walls and having a plurality of radially inwardly extending positioning members (Houng Fig. 3 #130) for clamping the bulb, each positioning member having a free edge, wherein each accommodation is provided at the top with an insertion opening for the bulb and is at least partially open at the bottom; the opening at the bottom being

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delimited by a cutting edge acting in the direction in which the bulb is removed from the accommodation (Houng Fig. 4 bottom edge of element #130); and adjacent accommodations sharing a common peripheral boundary wall over a full height of the accommodation from a top to a bottom.

Regarding Claims 40, Houng teaches the positioning members are plates extending increasingly further into the accommodation from the insertion opening to the bottom of the accommodation (Houng Fig. 4).

Regarding Claim 41, Houng teaches the plates are substantially perpendicular to the peripheral boundary of the accommodation (Houng Fig. 4 #130).

Regarding Claims 42, Houng inherently teaches that the positioning members have sharp cutting edges (Houng Fig. 4 bottom edge of #130, sharp edge is a relative term and since the edge of Houng is a straight edge is it is inherently sharper than a rounded edge and is this a sharp cutting edge).

Regarding Claim 43, Houng teaches that each accommodation has at least three positioning members (Houng Fig. 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent EP 0758524 to Houng et al.

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Regarding Claim 44, Houg et al does not explicitly teach that the boundary walls are of a thickness less than 2.5 mm. However, it would have been obvious to one of ordinary skill in the art to modify the teachings since the modification is merely an engineering design choice to achieve certain manufacturing cost parameters.

Claims 46-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent EP 0758524 to Houg et al in view of European Patent EP 0195653 to Williames, Geoffrey Alan.

Regarding Claim 46, Houg discloses that the accommodations has four sides and arranged in a honeycomb pattern (Houg Fig. 4), but is silent on a six sided design. However, Geoffrey Alan teaches a bulb tray with six sides (Geoffrey Fig. 2b). It would have been obvious to one of ordinary skill in the art to modify the teachings since the modification is merely an aesthetic design choice or a change in size to accommodate different size bulbs. Furthermore, Houg as modified is silent that the positioning members extend from a corner point of the accommodation. However, it would have been obvious to one of ordinary skill in the art since the modification is merely an engineering design choice of shifting the location of parts that perform the same intended function.

Regarding Claim 47, Houg as modified teaches the positioning members are plates extending increasingly further into the accommodation from the insertion opening to the bottom of the accommodation (Houg Fig. 4).

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Regarding Claim 48, Houg as modified teaches the plates are substantially perpendicular to the peripheral boundary of the accommodation (Houg Fig. 4 #130).

Regarding Claim 49, Houg as modified inherently teaches that the positioning members have sharp cutting edges (Houg Fig. 4 bottom edge #130).

Regarding Claim 50, Houg as modified teaches that each accommodation has at least three positioning members (Houg Fig. 4).

Regarding Claim 51, Houg as modified does not explicitly teach that the boundary walls are of a thickness less than 2.5 mm. However, it would have been obvious to one of ordinary skill in the art to modify the teachings since the modification is merely an engineering design choice to achieve certain manufacturing cost parameters.

Regarding Claim 52, Houg as modified discloses that the positioning members have strips of material fixed at the top of the accommodations for resiliently clamping the plants (Houg Fig. 4).

Regarding Claims 53 and 54, Houg as modified teaches the bulb tray cultivation system, but is silent on the container that receives the bulb tray and free space. However, It would have been obvious to one of ordinary skill in the art to modify the teachings since it is and old and notoriously well-known to provide a tray under a plant support for transporting purposes and for use in hydroponic systems for collecting/distributing liquids and nutrients.

Regarding Claim 55, Houg as modified does not explicitly teach that the boundary walls are of a thickness less than 2.5 mm. However, it would have been

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obvious to one of ordinary skill in the art to modify the teachings since the modification is merely an engineering design choice to achieve certain manufacturing cost parameters.

Claims 56, 57, 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent EP 0758524 to Houg et al in view of European Patent EP 0195653 to Williams, Geoffrey Alan, as applied to claims 39, 46, 53 above, and further in view of U.S. Patent No. 4,991,345 to Bloch.

Regarding Claims 56-58, Houg as modified is silent on plural legs that each depend from the bottom of a respective one of the accommodations to elevate the bottom of the accommodations. However, Bloch teaches an accommodation with legs on the bottom of the accommodation (Bloch #29 and 86). It would have been obvious to one of ordinary skill in the art to modify the teachings of Saarinen with the teachings of Bloch at the time of the invention to promote proper irrigation.

Response to Arguments

Applicant's arguments with respect to claim 39-58 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

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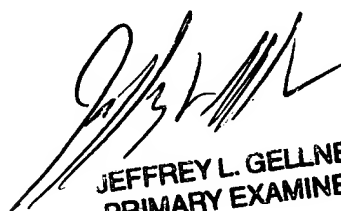
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti
Examiner
Art Unit 3643

22 November 2004



JEFFREY L. GELLNER
PRIMARY EXAMINER

Peter M. Poon
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